

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

JEFF M JUERGENS
Claimant

APPEAL NO. 15A-UI-02532-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

EXPRESS SERVICES INC
Employer

**OC: 04/27/14
Claimant: Appellant (2/R)**

Iowa Code § 96.19-38-a & b – Total and Partial Unemployment
Iowa Code § 96.4(3) – Able and Available for Work
871 Iowa Admin. Code R. 24-23 (26) – Same Hours and Wages

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated February 18, 2015, reference 03, which held claimant notable and available for work. After due notice, a hearing was scheduled for and held on March 30, 2015. Claimant participated personally. Employer participated by Valerie Hefel.

ISSUE:

The issues are whether claimant is still employed at the same hours and wages and partially unemployed.

FINDINGS OF FACT:

The claimant currently works for Express Services, a base-period employer, full time under the same terms and conditions as contemplated in the original contract of hire. Claimant has worked various assignments while working for employer and had a period of time with little to no employment between assignments.

Claimant's work for and assignment for employer ended on January 20, 2015. From January 21, 2015 to February 16, 2015 claimant remained in contact with employer and at all times was able and available for work. Although claimant expressed an interest for full-time, second-shift placement, paying more than \$10 per hour, he accepted any employment available.

Claimant is seeking partial benefits during the time period from January 20, 2015 to February 16, 2015 as claimant had consistently worked full-time hours for the last year or more of time with only a couple week interruptions in those hours.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant is partially unemployed for the period of time between January 20, 2015 and February 16, 2015.

Iowa Code § 96.19-38 provides:

"Total and partial unemployment".

a. An individual shall be deemed "totally unemployed" in any week with respect to which no wages are payable to the individual and during which the individual performs no services.

b. An individual shall be deemed partially unemployed in any week in which, while employed at the individual's then regular job, the individual works less than the regular full-time week and in which the individual earns less than the individual's weekly benefit amount plus fifteen dollars.

An individual shall be deemed partially unemployed in any week in which the individual, having been separated from the individual's regular job, earns at odd jobs less than the individual's weekly benefit amount plus fifteen dollars.

c. An individual shall be deemed temporarily unemployed if for a period, verified by the department, not to exceed four consecutive weeks, the individual is unemployed due to a plant shutdown, vacation, inventory, lack of work or emergency from the individual's regular job or trade in which the individual worked full-time and will again work full-time, if the individual's employment, although temporarily suspended, has not been terminated.

Because the claimant has consistent base period full time wages and was employed part time during a short period earlier this year, claimant is considered to have been partially unemployed. Benefits are allowed. The finder of fact shall calculate the benefits for claimant's partial unemployment.

DECISION:

The February 18, 2015, reference 03, decision is reversed and remanded for a calculation of benefits. The claimant was partially unemployed and benefits are allowed, provided claimant is otherwise eligible.

Blair A. Bennett
Administrative Law Judge

Decision Dated and Mailed

bab/can